

**REMARKS**

This Amendment is responsive to the Office Action identified above, and is responsive in any manner indicated below.

**PENDING CLAIMS**

Claims 1-19 were pending in the application at the time of the Office Action, under consideration and subject to examination. Unrelated to any rejection, appropriate claims have been minutely amended to correct informalities and properly identify the claimed features, and therefore are simply clarified claims. Applicant respectfully submits that such amendments are not substantive and do not change the scope of the claims. At entry of this paper, Claims 1-19 remain pending for further consideration and examination in the application.

**35 USC §112, 1<sup>ST</sup> ¶ REJECTION - PRECLUDED VIA CLAIM AMENDMENTS**

Claim 1 was rejected under 35 USC §112, 1<sup>ST</sup> ¶, for the concerns listed within Section 2 on page 2 of the Office Action. Traversal is appropriate, but such objection/rejection has been precluded by the present clarifying amendments to Applicant's claims. In order to preclude renewal of any such rejection, Applicant respectfully submits the following comments to show that Applicant's invention was sufficiently described and taught within Applicant's original disclosure.

More particularly, clarified Claim 1 sets forth the  $j^{\text{th}}$  layer ( $2 \leq j \leq n, j \neq i$ ) and the  $i^{\text{th}}$  layer ( $1 \leq i \leq n-1$ ). Therefore, the  $j^{\text{th}}$  layer and  $i^{\text{th}}$  layer can not be the same thing. The  $i$ -layer and  $j$ -layer may be laminated films interposed between a substrate and spacer layer, or a laminated film interposed between a spacer layer and another

spacer layer, wherein the i-layer and j-layer are composed of a lower protective layer, a recording layer, an upper protective layer, a nonlinear optical layer or a reflective layer (see Figs. 1 and 5, and also page 7, lines 12-17 of the original specification).

Based upon the foregoing, reconsideration and withdrawal of the §112, 1<sup>ST</sup> ¶ rejection of Claim 1 are respectfully requested.

**REJECTION UNDER §112, 2<sup>ND</sup> ¶-PRECLUDED VIA CLAIM AMENDMENT**

Claims 1, 2 and 18 were rejected under 35 USC §112, 2<sup>ND</sup> ¶, as being indefinite for the concerns listed within Section 4 spanning pages 2 and 3 of the Office Action. Unrelated to any rejection, Claims 1, 2 and 17 have been carefully reviewed and carefully amended where appropriate to correct the informalities in the features listed in the claims. As the foregoing is believed to have addressed all §112, 2<sup>ND</sup> ¶ concerns, reconsideration and withdrawal of the §112, 2<sup>ND</sup> ¶ rejection are respectfully requested.

**ALL REJECTIONS UNDER 35 USC §§102 AND 103 - TRAVERSED**

All 35 USC rejections (*i.e.*, the 35 USC §102 rejections of Claims 1-5 and 17 as being anticipated by Nagase *et al.* (US 6,385,162 B1), of Claims 1-3, 5-11 and 17-19 as being anticipated by Iwasaki *et al.* (US 6,329,035 B1), and of Claims 1, 3, 5, 6 and 17 as being anticipated by Abe *et al.* (US 5,738,973); and the 35 USC §103 rejection of Claims 1, 3 and 11-16 as being unpatentable over Iwasaki *et al.* in view of Sawada *et al.* (US 4,839,226)) are respectfully traversed. Such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims,

and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed. As additional arguments, Applicant respectfully submits the following.

Unrelated to any rejection, Claims 1, 2 and 18 has been amended to clarify the claims, thus precluding this rejection of such claims at this time. Patentability of remaining ones of the rejected claims are supported as follows.

In order to properly support a §102 anticipatory-type rejection, any applied art reference must disclose each and every limitation of any rejected claim. Further, in order to properly support a §103 obviousness-type rejection, any applied art must not only teach the claimed invention, but contain the motivation for modifying the art to arrive at the claimed invention. The applied art does not adequately support either a §102 anticipatory-type rejection or a §103 obviousness-type rejection because, at minimum, such applied art does not disclose (or suggest) important limitations of Applicant's clarified claims as discussed in the following remarks submitted from Applicant's foreign representative in support of traversal of the rejections and the patentability of Applicant's claims.

One of the important features of the present invention is that transmittance  $T_i$  of the  $i^{\text{th}}$  layer when light is focused on the recording film on the  $j^{\text{th}}$  layer fulfills

$$\prod_{i=1}^{j-1} T_i^2 \geq \frac{n-j+1}{n}$$

and the transmittance of the  $i^{\text{th}}$  layer changes when the light is focused on the recording film of the  $j^{\text{th}}$  layer. This medium can increase recording and reproducing property in multi-layered optical disks without optimum optical design allowing for high signal modulation in layers and optical systems for detecting transmittance which is to be placed on the top and bottom of the disk (see, e.g., page 3, lines 6-8; page 5, lines 6-11; and page 6, line 2 through page 9, line 6 of the specification).

Nagase *et al.* discloses an optical disk which has a super-resolution film whose transmittance changes due to the irradiation of light with a long wavelength. This disk is for reading out information recorded by light with a short wavelength at a narrow pitch, by light with a long wavelength to achieve high density of an optical disk (see Abstract, and Column 2, line 65 through Column 3, line 3). However, this does not tell about multi-layered medium and transmittance of  $i^{\text{th}}$  layer when light is focused on recording film of  $j^{\text{th}}$  layer.

Iwasaki *et al.* discloses an optical medium including reversible image recording layer in which information is recorded so as to be visible (see Abstract). However, this does not tell about multi-layered medium and transmittance of the  $i^{\text{th}}$  layer when light is focused on the recording film of the  $j^{\text{th}}$  layer, nor that the nonlinear film has reflectance higher than transmittance when the light focuses while having transmittance higher than reflectance when the light does not focus.

Abe discloses an auxiliary layer whose transmittance or reflectance increases in a real time manner correspondingly to the energy of an incident light (see

Abstract, and Column 7, line 58 through Column 8, line 34). However, this does not tell about multi-layered medium and transmittance of the  $i^{\text{th}}$  layer when light is focused on the recording film of the  $j^{\text{th}}$  layer.

Sawada *et al.* discloses magnetic oxide layer which is capable of attaining accurate tracking and obtaining high C/N, and suitable for mass production (see Column 3, lines 16-20), and its materials for high transmittance (see Column 4, lines 5-45). However, this does not tell about multi-layered medium and transmittance of  $i^{\text{th}}$  layer when light is focused on the recording film of the  $j^{\text{th}}$  layer.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a §102 anticipatory-type rejection or §103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such §§102 and 103 rejections, and express written allowance of all of the rejected claims, are respectfully requested. Further, it is respectfully submitted as a reminder that, if new art is now cited against any of Applicant's claims, then it would not be proper to make a next Action final.

#### **EXAMINER INVITED TO TELEPHONE**

The Examiner is invited to telephone the undersigned at the local DC area number 703-312-6600, to discuss an Examiner's Amendment or other suggested action for accelerating prosecution and moving the present application to allowance.

#### **CONCLUSION**

This Amendment is being filed within the shortened statutory period for response set by the Office Action mailed 7 May 2003, and therefore, no Petition or

extension fee is required. To whatever other extent is actually necessary and appropriate, Applicant respectfully petitions the Commissioner for an extension of time under 37 CFR §1.136. Further, no additional fees are required for entry of this Amendment. Please charge any actual deficiencies in appropriate fees to ATS&K Deposit Account No. 01-2135 (as Order No. 501.41179X00).

Respectfully submitted,



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